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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,113	03/11/2008	Anthony J. Khouri	061300-1011	7839
26371 7590 09/21/2011 FOLEY & LARDNER LLP 777 EAST WISCONSIN AVENUE MILWAUKEE, WI 53202-5306				
EXAMINER PRAKASH, GAUTAM				
ART UNIT 1775		PAPER NUMBER		
MAIL DATE 09/21/2011		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/591,113

**Applicant(s)**

KHOURI ET AL.

**Examiner**

GAUTAM PRAKASH

**Art Unit**

1775

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 September 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 5) ☒ Claim(s) 1,3,4 and 17-57 is/are pending in the application.
- 5a) Of the above claim(s) 33 and 35-57 is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 1,3,4,17-32 and 34 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-SB-005)  
Paper No(s)/Mail Date \_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Withdrawn Objections and Rejections***

1. The objection to claim 2.
2. The rejection of claims 1, 2, 7, 34, and 58 under 35 U.S.C. § 102(b) as being anticipated by Smith *et al.* (U.S. Pat. Appl. Pub. No. 2002/0071336).

### ***Claim Rejections - 35 U.S.C. § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 3, 4, 27 to 32, and 34 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claims 1, 3, 4, 27 to 32, and 34 recite “a polyalpha olefin fluid having a highly branched structure”. It is unclear how much olefinic branching is needed to become “highly” branched because the specification as filed does not define this term and there is no accepted meaning among those of ordinary skill in the art. In other words, the language of the claims is such that one of ordinary skill in the art could not interpret the metes and bounds of the claim so as to understand how to avoid infringement. Therefore, the claim does not appraise one of ordinary skill in the art of its scope and fails to serve the notice function required by 35 U.S.C. § 112, second paragraph, by providing clear warning to others as to what constitutes infringement of the patent. M.P.E.P. § 2173.02.

***Claim Rejections - 35 U.S.C. § 103***

6. The following is a quotation of 35 U.S.C. § 103(a) that forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 3, 4, 27 to 32, and 34 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Smith *et al.* (U.S. Pat. Appl. Pub. No. 2002/0071336), previously cited, in view of Ronay (U.S. Pat. Appl. Pub. No. 2005/0042976).

8. Regarding claims 1 and 34, Smith *et al.* teach a rotary concrete mixing drum with an interior surface coating comprising polyurethane and polytetrafluoroethylene (Smith *et al.* at paragraph [0006]). Smith *et al.* do not teach that the polytetrafluoroethylene has a weight percent of at least 2% and no greater than 5%. It would be *prima facie* obvious for one of ordinary skill in the art to adjust the amount of polytetrafluoroethylene in polyurethane to any weight percent according to need. Indeed, Ronay teach a polyurethane/polytetrafluoroethylene mixture with 2% by weight of solid polytetrafluoroethylene particles of 0.2  $\mu\text{m}$  average diameter, which meets the claimed limitation of “polytetrafluoroethylene powder” (Ronay at paragraph [0047]). Furthermore, it is well within the abilities of one of ordinary skill in the art using simple polymer chemistry to ensure that the polytetrafluoroethylene is “configured to be held firmly in place so as not to substantially migrate within the polymer”.

9. Regarding claims 3, 4, and 27 to 29, adjusting the properties of the slip agent and the polymer is well within the abilities of one of ordinary skill in the art without undue experimentation.

10. Regarding claims 30 to 32, Smith *et al.* teach that the interior of the drum may contain fins, which meet the claimed limitation of inwardly extending projections. The fins may also be coated (Smith *et al.* at paragraph [0030] and claim 11).

11. Claims 17 to 26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Smith *et al.* (U.S. Pat. Appl. Pub. No. 2002/0071336), previously cited, in view of Ronay (U.S. Pat. Appl. Pub. No. 2005/0042976), as applied to claims 1, 3, 4, 27 to 32, and 34 *supra*, and further in view of Rodgers (WO 01/26871), cited in the International Search Report (ISR) mailed 29 December 2004, in the IDS filed 31 August 2006, in the Written Opinion of the International Searching Authority (WOISA) issued 04 September 2006, and in the International Preliminary Report on Patentability (IPRP) issued 05 September 2006.

12. Regarding claims 17 to 19, Smith *et al.* in view of Ronay do not teach an outer layer providing an exterior surface of the drum. Rodgers teaches concrete mixing drum with an outer layer. The outer layer can be plastic (*i.e.*, non-metallic) and can include fiberglass (Rodgers at page 6).

13. It would be *prima facie* obvious for one of ordinary skill in the art to combine the teachings of Smith *et al.* in view of Ronay and Rodgers because Rodgers teaches that weight of a plastic concrete mixing drum, when full, is lighter than an equivalently sized steel drum (Rodgers at page 7).

14. Regarding claims 20 and 25, Rodgers teaches multiple fiberglass layers using a winding arrangement (Rodgers at pages 15-17).

15. Regarding claims 21 to 24, the thickness of the layers and the smoothness of the ground surface are deemed to be merely design choices and well within the abilities of one of ordinary skill in the art without undue experimentation.
16. Regarding claim 26, a standard steel concrete mixing drum, such as the one in Smith *et al.*, has an outer layer that is metallic.

***Response to Arguments***

17. Applicant's arguments filed 12 September 2011 have been fully considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

No claim is allowed.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 C.F.R. § 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GAUTAM PRAKASH whose telephone number is 571-270-3030. The examiner can normally be reached on Monday, Tuesday, Thursday, and Friday from 8:30 am to 7:00 pm, Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Marcheschi can be reached on 571-272-1374. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, go to <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, please contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, please call 800-786-9199 (in USA or CANADA) or 571-272-1000.

/G.P./  
Examiner, Art Unit 1775

/Nathan A Bowers/  
Primary Examiner, Art Unit 1775